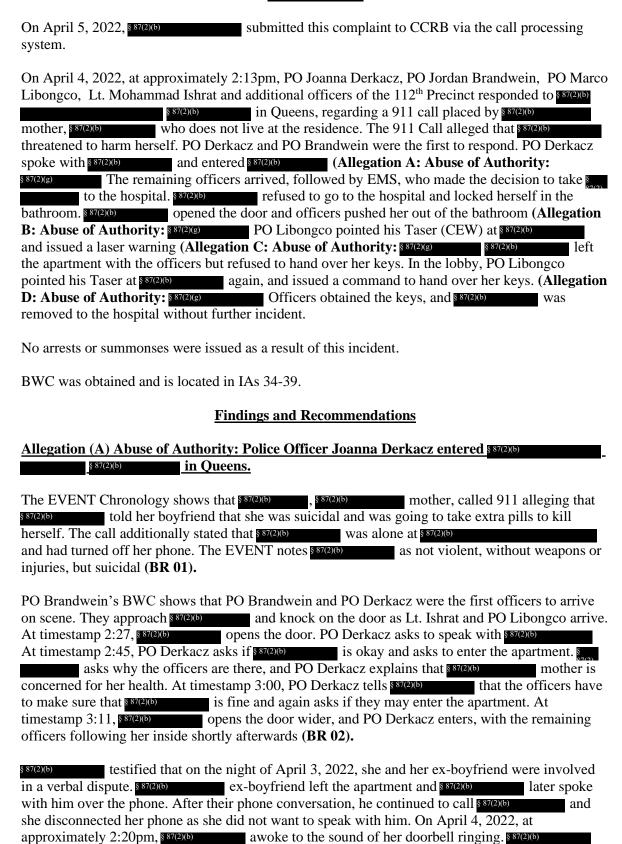
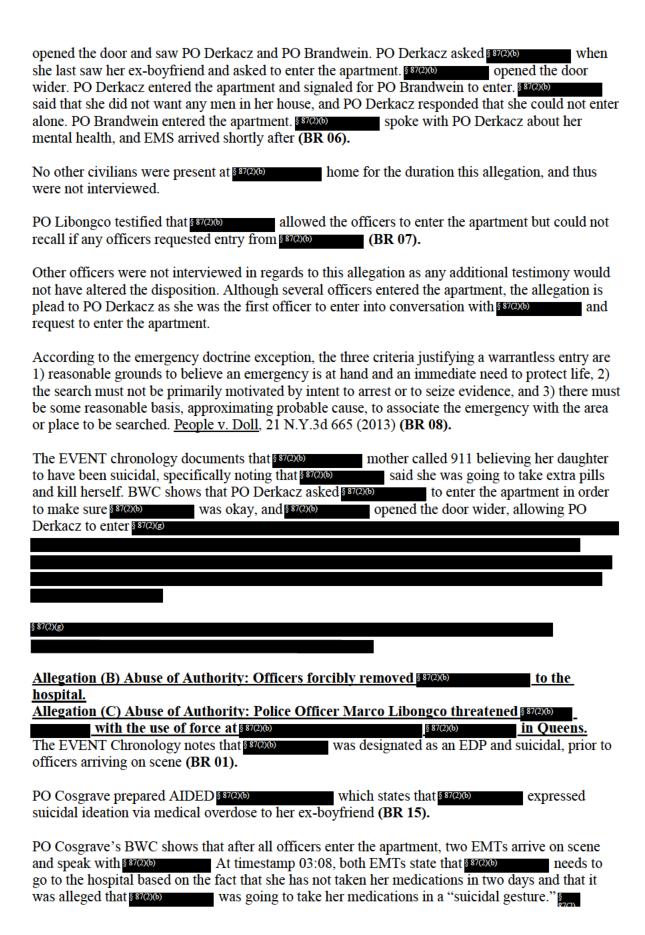
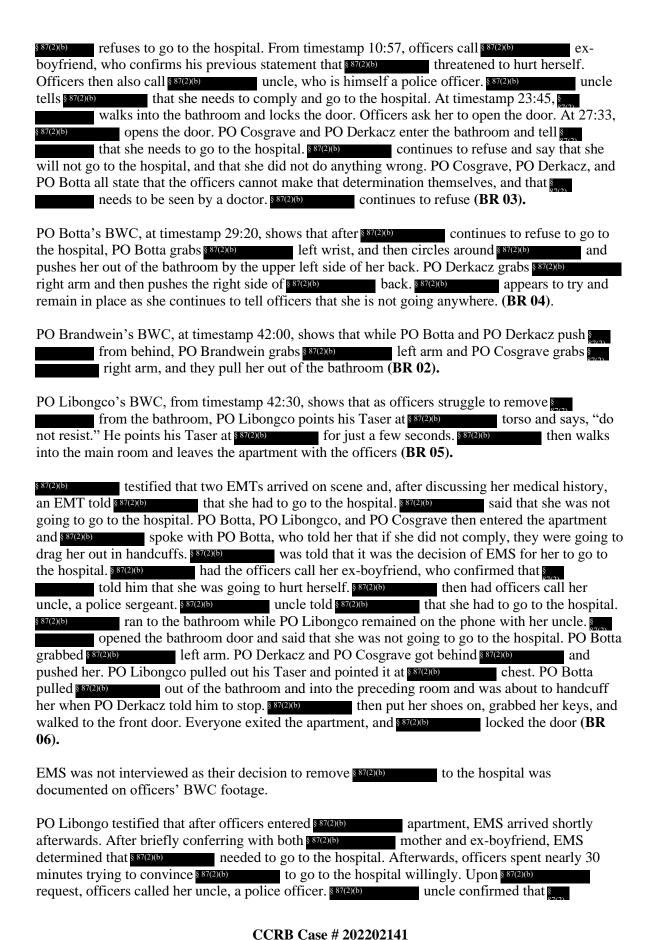
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	☐ Force	☐ Discourt.	U.S.
Theo Kaufman		Squad #6	202202141	✓ Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Precinct	: 18 Mo. SOL	EO SOL
Monday, 04/04/2022 2:20 PM		§ 87(2)(b)	§ 87(2)(b)	112	10/4/2023	10/4/2023
Date/Time CV Reported		CV Reported At:	How CV Reported:	Date/Ti	me Received at CCI	RB
Tue, 04/05/2022 1:18 PM			Call Processing System	Tue, 04	Tue, 04/05/2022 1:18 PM	
Complainant/Victim Type		Home Address				
Subject Officer(s)	Shield	TaxID	Command			
1. PO Marco Libongco	10478	938858	112 PCT			
2. Officers						
3. PO Joanna Derkacz	22282	968753	112 PCT			
Officer(s)	Allegation			In	ıvestigator Recon	nmendation
A.PO Joanna Derkacz	Abuse: Police Officer Joanna Derkacz entered (5) in Queens.					
B. Officers	Abuse: Officers forcibly removed \$87(2)(b) to the hospital.					
C.PO Marco Libongco	Abuse: Police Officer Marco Libongco threatened \$87(2)(b) with the use of force at \$87(2)(b) in Queens.					
D.PO Marco Libongco	Abuse: Police Officer Marco Libongco threatened with the use of force in the lobby of [837(2)]					

Case Summary







needed to comply and go to the hospital. \$\frac{87(2)(b)}{2}\$ then went into the bathroom and locked the door. Officers stood in the hallway in front of the bathroom for approximately 10 minutes until \$\frac{87(2)(b)}{2}\$ opened the door. She was unwilling to leave, and PO Botta, PO Brandwein, and PO Cosgrave entered the bathroom and guided \$\frac{87(2)(b)}{2}\$ out by the hands and elbow. Officers pushed \$\frac{87(2)(b)}{2}\$ out of the bathroom and into the hallway as she tried to remain in place. It took officers two to three minutes to get \$\frac{87(2)(b)}{2}\$ out of the hallway. To try and gain compliance from \$\frac{87(2)(b)}{2}\$ PO Libongco removed the cartridge from his Taser and pointed it in her direction to show that if she continued to refuse compliance, he could use the Taser on her. \$\frac{87(2)(b)}{2}\$ eventually left the apartment (BR 07).

Other officers were not interviewed in regards to this allegation as any additional testimony would not have altered the disposition.

An officer may involuntarily remove a civilian to a hospital when the officer reasonably believes that a person who is mentally ill or emotionally disturbed must be taken into protective custody because the person is conducting themselves in a manner likely to result in serious injury to themselves or others. Patrol Guide Procedure 221-13 (BR 09). A Taser, or Conducted Electrical Weapon (CEW), should only be used against person who is actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or others present. Active resisting includes physically evasive movements to defeat a member's attempt at control. A laser warning is pointing and placing the laser dot of an activated CEW on a subject in order to attempt to achieve voluntary compliance. When feasible, an officer should issue a verbal warning to the intended subject in conjunction with a laser warning. Patrol Guide Procedure 221-08 (BR 10). Active resistance includes physically evasive movements to defeat a member of the service's attempt at control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody. Patrol Guide Procedure 221-02 (BR 11).

Officers and EMS were called to the scene because \$87(2)(b) allegedly expressed suicidal ideation to her ex-boyfriend. BWC shows that two EMTs spoke with \$87(2)(6) determining that she needed to go to the hospital. Additionally, officers spoke with \$87(2)(6) ex-boyfriend over the phone, who confirmed that \$87(2)(b) expressed suicidal ideations, providing reasonable belief that \$87(2)(b) was been a threat to herself, and providing officers with cause to involuntarily remove her to a hospital as per Patrol Guide Procedure 221-13. BWC shows that from the first time EMS told \$87(2)(b) that she needed to go to the hospital, to the point at which officers physically removed \$87(2)(b) from the bathroom, approximately 26 minutes passed during which officers tried to obtain voluntary compliance from §87(2)(6) retreated to the bathroom, officers waited for her to open the door and then continued to try and convince her to willingly go to the hospital. When PO Botta, PO Cosgrave, PO Brandwein, and PO Derkacz began to physically remove \$87(2)(b) from the bathroom, she continued verbally refusing to go with them, and physically braced herself enough to require four officers to remove her from the bathroom. PO Libongco then pointed his Taser at \$37(2)(6) torso, issuing a laser warning, as well as a command. This is consistent with PO Libongco's testimony that it required multiple officers to remove \$87(2)(b) from the hallway, and that PO Libongco pointed the Taser at \$87(2)(b) as a way of gaining compliance. Patrol Guide Procedure 221-08 states that a Taser should only be used against a person who is actively resisting, and a laser warning should be issued in order to attempt to achieve voluntary compliance. Patrol Guide Procedure 221-02 defines active resistance as any physically evasive movements such as bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into custody. §87(2)(b) consistent verbal refusal to cooperate with officers, as well as her physically bracing herself, as evidenced by the need for four officers to physically remove her, amount to the definition of active resistance, § 87(2)(g)

§ 87(2)(g)
§ 87(2)(g)
Allegation (D) Abuse of Authority: Police Officer Marco Libongco threatened with the use of force in the lobby of second in Queens.
PO Libongco's BWC shows at timestamp 44:00, \$\frac{8700}{100}\$ exits \$\frac{8700}{100}\$ and PO Libongco asks who has the keys. \$\frac{8700}{100}\$ ignores PO Libongco and says, "don't touch me." PO Libongco tells PO Derkacz and PO Cosgrave to take the keys from \$\frac{8700}{100}\$ At 44:22, PO Cosgrave walks to the lobby with \$\frac{8700}{100}\$ and ask for her keys. In the lobby, PO Libongco asks where the keys are, and PO Cosgrave says that \$\frac{8700}{100}\$ is holding them. PO Libongco grabs \$\frac{8700}{100}\$ left wrist and tells her to give PO Cosgrave the keys. \$\frac{8700}{100}\$ tells PO Libongco not to touch her. At timestamp 44:25, PO Libongco points his Taser at \$\frac{8700}{100}\$ upper body and says, "Give her the keys now! Give her the keys! I'm tired of it." He points the Taser at \$\frac{8700}{100}\$ right hand (BR 05).
alleged that as she locked her door, she felt someone pull on her arm and heard an officer say that she was not supposed to have her keys. In the lobby, she felt PO Libongco pull on her arm and turned around to see him pointing his Taser at her face, just an inch or two away from her. PO Libongco told [587(2)0] to give over her keys and said that he was tired of this. [5] then gave her keys to an officer and walked out to the ambulance (BR 06).
PO Libongco told 1870 that the officers would hold onto her keys, as they did not want her to use them to harm herself or anyone else. As 1870 walked down the hallway, PO Libongco asked 1870 to hand the keys to an officer at least twice. 1870 refused and continued walking. In the lobby, PO Libongco grabbed 1870 hand, and again demanded that she provide her keys. 1870 swatted away PO Libongco's forearm. PO Libongco pointed his Taser at 1870 chest/neck area. 1870 provided the keys, and then walked out to the ambulance. PO Libongco received training on using his Taser for compliance at some point after graduating from the academy (BR 07).

Other officers were not interviewed any additional testimony would not have altered the disposition of this allegation.

When a uniformed member to the service reasonably believes that a person who is apparently mentally ill must be taken into protective custody, they must remove property that is dangerous to life. Patrol Guide Procedure 221-13 (BR 09). A Taser, or Conducted Electrical Weapon (CEW), should only be used against a person who is actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or others present. Active resisting includes physically evasive movements to defeat a member's attempt at control. Patrol Guide Procedure 221-08 (BR 10). Passive resistance is defined as minimal physical action to prevent a member from performing their lawful duty, such as failing to comply with a lawful command. Patrol Guide Procedure 221-02 (BR 11).

CCRB Case # 202202141

and PO Libongco's statement that, after leaving the apartment, PO Libongco told that she was not supposed to have her keys. In the lobby of the building, PO Libongco pointed his Taser at \$\frac{\sqrt{200}}{200}\$ left wrist and pointed his Taser at her. After issuing the command and pointing his Taser at \$\frac{\sqrt{200}}{200}\$ PO Cosgrave obtained her keys. Although Patrol Guide Procedure 221-13 states that officers must remove property that is dangerous to life, and PO Libongco thought that \$\frac{\sqrt{200}}{200}\$ keys could have been used to harm herself or someone else, \$\frac{\sqrt{200}}{200}\$ failure to comply with the order does not rise above passive resistance. Because the use of Taser is limited to a person who is actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or others present \$\frac{\sqrt{200}}{200}\$							
	<u>Civilian and</u>	Officer CCRB Histories					
PO Derkacz ha	CCRB complaint to which s s been a member of service f nts and two additional allega	has been a party (BR for two years and has been a subjec- ations, none of which were substant	t in two additional				
CCRB complai	nts and six additional allegat 588 involved substantiated a	for 17 years and has been a subjections, of which one was substantiated llegations of Physical Force against vel Instructions and the NYPD imp	ed.: st PO Libongco. The				
As of July 12, 2	declined to mediate this com 2022, the New York City Off ed in regard to this incident (fice of the Comptroller has no reco	rd of a Notice of				
Squad: 6							
Investigator:	Theo Kaufman	Investigator Theo Kaufman	01/11/2023				
	Signature	Print Title & Name	Date				
Squad Leader	Jessica Peña	IM Jessica Peña	1/11/2023				
Squad Deddel.	Signature	Print Title & Name	Date				
Reviewer:	Signature	Print Title & Name	Date				